S.B. CIVIL WRIT PETITION NO.5683/1993
Jodhpur Diesels Private Ltd. Vs. Union of India & Ors.

DATE OF ORDER :: 09-05-2005

HON'BLE MR. GOVIND MATHUR,J.

Mr. M.R. Singhvi, for the petitioner.

A demand was made by the respondents for a sum of Rs.19,100/- and 1,120/- against the use of telephone No.69207 at Jaipur. The telephone No.69207 was in use of a partnership firm namely Jai Bharat Bus Service, Jaipur. Shri Shamoo Mal Balochi was a partner in that firm. Aforesaid Shri Shamoo Mal Balochi is also Managing Director of an another company named as Jodhpur Diesels Private Ltd. (petitioner). The company is having three telephone connections bearing number 34474, 34892 and 26522 and another telephone number 32530 is in name of Shri Shamoo Mal Balochi (petitioner No.2).

The grievance of the petitioner is that the respondents while making a demand against the use of telephone number 69207 at Jaipur, ordered for disconnection of the telephone numbers 34474, 34892 and 26522 and 32530 at Jodhpur, though these telephone numbers are not at all concern with M/s. Jai Bharat Bus Service. According to learned counsel for the petitioner, the order to disconnect the telephone numbers referred above was passed only on the count that petitioner No.2 Shri Shamoo Mal Balochi

happens to be a partner in Jai Bharat Bus Service as well as Managing Director of Jodhpur Diesels Private Ltd.

It is contended by the counsel for the petitioner that the M/s. Jai Bharat Bus Service is a partnership firm and the Jodhpur Diesels Private Ltd is a company registered under the Companies Act, 1956, therefore, both are separate and independent identity. The telephone connections in favour of Jodhpur Diesels Private Ltd. and in favour of petitioner No.2 could not be disconnected against the use of telephone number 69207 which was in favour of the partnership firm Jai Bharat Bus Service, though Shri Shamoo Mal Balochi was partner in that firm and also Managing Director in Jodhpur Diesels Private Ltd.

Heard learned counsel for the petitioner.

In view of the fact that M/s. Jai Bharat Bus Service is a partnership firm, a totally separate identity than the petitioner company, therefore , the respondents were wrong in making an order to disconnect the telephone used by the petitioner as a consumer of the respondents. It is pertinent to note that the telephone number 69207 was used by M/s. Jai Bharat Bus Service at Jaipur whereas the telephone connections sought to be disconnected are at Jodhpur in the name of petitioner company and the petitioner No.2, which are totally separate identity. The respondents erred in

making an order for disconnection of the telephone in dispute as the same are not the connections in favour of defaulter firm.. The order to disconnect the telephone number concern therefore is set aside to that extent. However, it is open for the respondents to effect recovery from the defaulting partnership firm, if not already made.

The writ petition is disposed of accordingly.

[Govind Mathur],J.

Praveen